UNITED STATES PATENT & TRADEMARK OFFICE
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REQUEST FOR **PATENT** FEE REFUND

1 Date of Request: 8/22/05 | 2 Serial/Patent # 10826440

| | 3 Please refund the following fee(s): | 4 PAPER NUMBER | 5 DATE FILED | 6 AMOUNT |
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| | Filing | | | $ |
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9 03--2455

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Katherine Lally

Katherine Lally

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

| | |
|---|---|
| Applicants: Heibel et al | Examiner: Not Yet Assigned |
| Serial No.: 10/826,490 | Art Unit: 1751 |
| Filing Date: 10/12/04 | Confirmation No.: 1345 |
| For: **Fabric Care Composition Comprising Polymer Encapsulted Fabric or Skin Beneficiating Ingredient** | Attorney Docket No.: 7564-00 |

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**PETITION TO MAINTAIN THE FILING DATE OF APRIL 15, 2004 IN ACCORDANCE WITH THE FIRST OF TWO FILING RECEIPTS MAILED BY THE USPTO**

**PETITION**

Applicants hereby petition that the filing date of the subject application be maintained as April 15, 2004, as indicated in the first Filing Receipt mailed by the USPTO on 6/28/04.

Applicants further petition that the Updated Filing Receipt mailed 11/1/04, indicating a new filing date of October 12, 2004 be vacated and be considered a nullity with regard to establishing the filing date of the subject application.

**STATEMENT OF FACTS AND CHRONOLOGY OF EVENTS**

The following represents the chronology of the papers submitted relating to the filing of the subject application:

(a) A complete application was filed on April 15, 2004 by Express Mail containing 18 pages of Description, 7 pages of Claims and 1 page of Abstract (26 total pages).



08/05/2005 KBETEMA1 00000053 032455 10826490
01 FC:1464 130.00 DA

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Adjustment date: 08/23/2005 AKELLEY
08/05/2005 KBETEMA1 00000053 032455 10826490
01 FC:1464 130.00 CR

(b) On June 20, 2004 a Filing Receipt was mailed by the USPTO indicating a filing date of April 15, 2004.

(c) On June 28, 2004, a Notice to File Missing Parts (Filing Date Granted) was mailed requesting the filing of an executed Declaration and a substitute specification. A substitute specification was requested in order to extract Figure 1 from the body of the description and have it submitted on a separate sheet as a substitute drawing.

(d) Applicants mailed the executed Declaration on July 30, 2004.

(e) On August 23, 2004, a Notice of Incomplete Reply was mailed by the USPTO stating that a substitute specification was still outstanding.

(f) On October 7, 2004, a Response to the Notice of Incomplete Reply was mailed by applicants transmitting the substitute specification as well as the flow diagram which was previously embedded in the specification as Figure 1 and was now submitted separately in compliance with 37 CFR 1.54. A two month extension of time was also filed.

(g) On November 1, 2004, the USPTO mailed an Updated Filing Receipt indicating a filing of October 12, 2004.

**REMARKS**

Applicants originally filed application on April 15, 2004 was in compliance with 37 CFR 1.53(e).

Applicants submission of a substitute specification and drawing did not introduce new matter into the subject application.

In the substitute specification, the drawing (figure 1) was removed from page 10 of the originally filed application and submitted as a separate drawing.

The disclosed subject matter in the originally filed application and the disclosed subject matter in the substitute application with the separate figure are necessarily identical. Accordingly, the filing date of April 15, 2004 must be maintained for the subject application; the filing date noted in the Update Filing Receipt is in error. The Updated Filing Receipt must therefore be vacated.



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## SUBMISSIONS

Submitted herewith is:

(a) a copy of the original Filing Receipt mailed on 6/28/04 indicating the filing date as April 15, 2004.

(b) a copy of the Updated Filing Receipt mailed on November 1, 2004 indicating the filing date as October 12, 2004.

## PETITION FEE

Authorization is hereby made to charge the amount of $130.00 to Deposit Account No. 03-2455. Authorization is also provided to charge any additional fees required by the Petition and credit any overpayment to Deposit Account No. 03-2455. A duplicate of this paper is attached.

## REQUEST FOR REFUND OF PETITION FEE

Because no defect exists in applicants' previous submission, a refund of the petition fee is respectfully requested to be paid by a credit to the Account No. authorized above.

Respectfully submitted,



Bernard Lieberman
Reg. No. 26,194

**CUSTOMER NUMBER 23909**
PHONE: (732) 878-7151
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